

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAFAEL SALAS,

Plaintiff,

v.

C. PFEIFFER, et al.,

Defendants.

No. 1:21-cv-00669-DAD-EPG (PC)

ORDER DECLINING TO ADOPT FINDINGS  
AND RECOMMENDATIONS AND  
REFERRING THE PENDING MOTION TO  
DISMISS BACK TO THE MAGISTRATE  
JUDGE

(Doc. No. 29, 35)

Plaintiff Rafael Salas is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 16, 2021, defendants filed a motion to dismiss in this action. (Doc. No. 29.) On November 29, 2021, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion to dismiss be denied. (Doc. No. 35 at 13.)

The pending findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within twenty-one (21) days of service. (*Id.*) On December 20, 2021, defendants filed objections. (Doc. No. 37.) Plaintiff did not file

1 objections or respond to defendants' objections. In their objections, defendants make two  
2 arguments. First, defendants argue that the magistrate judge erred in reasoning that "qualified  
3 immunity does not apply in cases in which the plaintiff seeks both monetary and non-monetary  
4 relief." (Doc. No. 37 at 5.) Second, defendants argue that the magistrate judge erred in  
5 concluding that "Defendants had a Constitutionally-required obligation to help Salas challenge  
6 prison administrators' rulings on two of Salas' prison grievances." (*Id.* at 8.) Defendants contend  
7 that "42 U.S.C. § 1983 does not provide for a cause of action merely because a prison official is  
8 allegedly rude, unhelpful, or unprofessional." (*Id.* at 9.)

9 As to defendants' first argument, the court agrees that plaintiff seeks both injunctive relief  
10 and monetary damages. (*See* Doc. No. 1 at 3.) Accordingly, although defendants are not entitled  
11 to qualified immunity with regard to any injunctive relief claims, they might be entitled to  
12 qualified immunity with regard to plaintiff's claims for damages. *See Clement v. Cal. Dept. of*  
13 *Corrs.*, 220 F. Supp. 2d 1098, 1114 (N.D. Cal. 2002) (Noting that the availability of qualified  
14 immunity is limited to actions seeking *damages* against a government official in his individual  
15 capacity, but is not available when the only relief sought is injunctive). As such, the court will  
16 decline to adopt to findings and recommendations at this time, referring defendants' motion to  
17 dismiss (Doc. No. 29) back to the assigned magistrate for consideration of defendants' qualified  
18 immunity arguments as to plaintiff's claims seeking the award of damages.

19 As to defendants' second argument, the court does not find defendants' contentions to be  
20 persuasive. In the findings and recommendations (Doc. No. 35) and the prior screening order in  
21 this case (Doc. No. 15), the assigned magistrate judge did not conclude that plaintiff's § 1983  
22 claim was based solely on the allegation of rude or unhelpful acts by defendants. Rather, the  
23 magistrate judge concluded that—as alleged—defendants' actions in not assisting plaintiff with  
24 his marriage application could potentially lead to a denial of plaintiff's due process right to marry.  
25 (*See id.* at 10) ("Plaintiff alleged that his marriage application was denied because he was  
26 married, that he is not actually married, that he told at least some of the defendants that he is not  
27 actually married, and that they are still preventing him from getting married."). Nevertheless, in  
28 order to avoid confusion with respect to the pending motion to dismiss, the court will not adopt

1 that aspect of the findings and recommendations at this time but will do so upon receipt of the  
2 subsequent findings and recommendations.

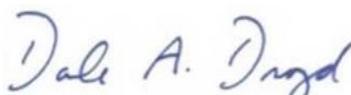
3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
4 *de novo* review of the case. Having carefully reviewed the entire file, including defendants'  
5 objections, the undersigned declines to adopt the pending findings and recommendations as they  
6 pertain to defendants' qualified immunity arguments, without evaluating or reaching any  
7 determination as to the analysis therein, at this time. Instead, out of an abundance of caution, the  
8 pending motion to dismiss (Doc. No. 29) will be referred back to the magistrate judge for further  
9 consideration in light of defendants' objections for reissuance of findings and recommendations.

10 Accordingly,

- 11 1. The court declines to adopt the findings and recommendations issued on  
12 November 29, 2021 (Doc. No. 35); and
- 13 2. Defendants' motion to dismiss (Doc. No. 29) is referred back to the assigned  
14 magistrate judge for the issuance of findings and recommendations in light of the  
15 objections filed by defendants and for further proceedings.

16 IT IS SO ORDERED.

17 Dated: April 6, 2022

  
18 \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

19  
20  
21  
22  
23  
24  
25  
26  
27  
28